

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SENATE BILL 1209**

AN ACT

AMENDING SECTIONS 38-431.01 AND 38-431.02, ARIZONA REVISED STATUTES; RELATING TO PUBLIC MEETINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 38-431.01, Arizona Revised Statutes, is amended to  
3 read:

4           38-431.01. Meetings shall be open to the public

5       A. All meetings of any public body shall be public meetings and all  
6 persons so desiring shall be permitted to attend and listen to the  
7 deliberations and proceedings. All legal action of public bodies shall occur  
8 during a public meeting.

9       B. All public bodies, except for subcommittees and advisory  
10 committees, shall provide for the taking of written minutes or a recording of  
11 all their meetings, including executive sessions. For meetings other than  
12 executive sessions, such minutes or recording shall include, but not be  
13 limited to:

14           1. The date, time and place of the meeting.

15           2. The members of the public body recorded as either present or  
16 absent.

17           3. A general description of the matters considered.

18           4. An accurate description of all legal actions proposed, discussed or  
19 taken, and the names of members who propose each motion. The minutes shall  
20 also include the names of the persons, as given, making statements or  
21 presenting material to the public body and a reference to the legal action  
22 about which they made statements or presented material.

23       C. Minutes of executive sessions shall include items set forth in  
24 subsection B, paragraphs 1, 2 and 3 of this section, an accurate description  
25 of all instructions given pursuant to section 38-431.03, subsection A,  
26 paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by  
27 the public body.

28       D. The minutes or a recording shall be open to public inspection three  
29 working days after the meeting except as otherwise specifically provided by  
30 this article. THE PUBLIC BODIES OF THE CITIES AND TOWNS THAT HAVE AN  
31 INTERNET WEB SITE SHALL POST A STATEMENT SHOWING THE LEGAL ACTIONS TAKEN BY  
32 THE PUBLIC BODY OF A CITY OR TOWN DURING A MEETING OR ANY RECORDINGS ON THEIR  
33 INTERNET WEB SITE FOR PUBLIC INSPECTION WITHIN THREE WORKING DAYS AFTER THE  
34 MEETING AND SHALL ALSO POST THE APPROVED MINUTES OF ALL CITY OR TOWN COUNCIL  
35 MEETINGS WITHIN TWO WORKING DAYS FOLLOWING APPROVAL OF THE MINUTES, EXCEPT AS  
36 OTHERWISE SPECIFICALLY PROVIDED BY THIS ARTICLE.

37       E. All or any part of a public meeting of a public body may be  
38 recorded by any person in attendance by means of a tape recorder, ~~OR~~ OR camera  
39 or ANY other means of sonic reproduction, provided that there is no active  
40 interference with the conduct of the meeting.

41       F. The secretary of state for state public bodies, the city or town  
42 clerk for municipal public bodies and the county clerk for all other local  
43 public bodies shall distribute open meeting law materials prepared and  
44 approved by the attorney general to a person elected or appointed to a public  
45 body prior to the day that person takes office.

1       G. A public body may make an open call to the public during a public  
2 meeting, subject to reasonable time, place and manner restrictions, to allow  
3 individuals to address the public body on any issue within the jurisdiction  
4 of the public body. At the conclusion of an open call to the public,  
5 individual members of the public body may respond to criticism made by those  
6 who have addressed the public body, may ask staff to review a matter or may  
7 ask that a matter be put on a future agenda. However, members of the public  
8 body shall not discuss or take legal action on matters raised during an open  
9 call to the public unless the matters are properly noticed for discussion and  
10 legal action.

11     H. A member of a public body shall not knowingly direct any staff  
12 member to communicate in violation of this article.

13     Sec. 2. Section 38-431.02, Arizona Revised Statutes, is amended to  
14 read:

15      38-431.02. Notice of meetings

16      A. Public notice of all meetings of public bodies shall be given as  
17 follows:

18       1. The public bodies of the state shall file a statement with the  
19 secretary of state stating where all public notices of their meetings will be  
20 posted and shall give such additional public notice as is reasonable and  
21 practicable as to all meetings.

22       2. The public bodies of the counties, school districts and other  
23 special districts shall file a statement with the clerk of the board of  
24 supervisors stating where all public notices of their meetings will be posted  
25 and shall give such additional public notice as is reasonable and practicable  
26 as to all meetings.

27       3. The public bodies of the cities and towns shall file a statement  
28 with the city clerk or mayor's office stating where all public notices of  
29 their meetings will be posted and shall give such additional public notice as  
30 is reasonable and practicable as to all meetings.

31       4. THE PUBLIC BODIES OF THE CITIES AND TOWNS THAT HAVE AN INTERNET WEB  
32 SITE SHALL POST ALL PUBLIC NOTICES OF THEIR MEETINGS ON THEIR INTERNET WEB  
33 SITE AND SHALL GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE  
34 AS TO ALL MEETINGS. A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS  
35 THE POSTING OF PUBLIC NOTICES ON A CITY OR TOWN WEB SITE OR THAT TEMPORARILY  
36 OR PERMANENTLY PREVENTS THE USAGE OF ALL OR PART OF THE WEB SITE DOES NOT  
37 PRECLUDE THE HOLDING OF THE MEETING FOR WHICH THE NOTICE WAS POSTED IF ALL  
38 OTHER PUBLIC NOTICE REQUIREMENTS REQUIRED BY THIS SECTION ARE COMPLIED WITH.

39       B. If an executive session will be held, the notice shall be given to  
40 the members of the public body, and to the general public, stating the  
41 specific provision of law authorizing the executive session.

42       C. Except as provided in subsections D and E, meetings shall not be  
43 held without at least twenty-four hours' notice to the members of the public  
44 body and to the general public.

1       D. In case of an actual emergency, a meeting, including an executive  
2 session, may be held ~~upon~~ ON such notice as is appropriate to the  
3 circumstances. If this subsection is utilized for conduct of an emergency  
4 session or the consideration of an emergency measure at a previously  
5 scheduled meeting the public body must post a public notice within  
6 twenty-four hours declaring that an emergency session has been held and  
7 setting forth the information required in subsections H and I.

8       E. A meeting may be recessed and resumed with less than twenty-four  
9 hours' notice if public notice of the initial session of the meeting is given  
10 as required in subsection A, and if, prior to recessing, notice is publicly  
11 given as to the time and place of the resumption of the meeting or the method  
12 by which notice shall be publicly given.

13      F. A public body ~~which THAT~~ intends to meet for a specified calendar  
14 period, on a regular day, date or event during such calendar period, and at a  
15 regular place and time, may post public notice of such meetings at the  
16 beginning of such period. Such notice shall specify the period for which  
17 notice is applicable.

18      G. Notice required under this section shall include an agenda of the  
19 matters to be discussed or decided at the meeting or information on how the  
20 public may obtain a copy of such an agenda. The agenda must be available to  
21 the public at least twenty-four hours prior to the meeting, except in the  
22 case of an actual emergency under subsection D.

23      H. Agendas required under this section shall list the specific matters  
24 to be discussed, considered or decided at the meeting. The public body may  
25 discuss, consider or make decisions only on matters listed on the agenda and  
26 other matters related thereto.

27      I. Notwithstanding the other provisions of this section, notice of  
28 executive sessions shall be required to include only a general description of  
29 the matters to be considered. Such agenda shall provide more than just a  
30 recital of the statutory provisions authorizing the executive session, but  
31 need not contain information that would defeat the purpose of the executive  
32 session, compromise the legitimate privacy interests of a public officer,  
33 appointee or employee, or compromise the attorney-client privilege.

34      J. Notwithstanding subsections H and I, in the case of an actual  
35 emergency a matter may be discussed and considered and, at public meetings,  
36 decided, where the matter was not listed on the agenda provided that a  
37 statement setting forth the reasons necessitating such discussion,  
38 consideration or decision is placed in the minutes of the meeting and is  
39 publicly announced at the public meeting. In the case of an executive  
40 session, the reason for consideration of the emergency measure shall be  
41 announced publicly immediately prior to the executive session.

1           K. Notwithstanding subsection H, the chief administrator, presiding  
2 officer or a member of a public body may present a brief summary of current  
3 events without listing in the agenda the specific matters to be summarized,  
4 provided that:

- 5           1. The summary is listed on the agenda.  
6           2. The public body does not propose, discuss, deliberate or take legal  
7 action at that meeting on any matter in the summary unless the specific  
8 matter is properly noticed for legal action.